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HISTORY.

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HISTORIA verò testis temporum, lux veritatis, vita memoria, magistra vitæ, nuntia vetustatis, qua voce alia, nisi Oratoris, immortalitati commendatur.

CICERO DE ORATORE.

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CHAPTER XXII.

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THE arrival of two regiments of soldiers, during this exasperation in the public mind, was an incident which might reasonably be expected to increase the suspicions of the Americans, and to inflame them to the highest degree of indignation. Hitherto no British troops had been quartered upon the city of Boston; it being provided by a special act of parliament, that none should be quartered any where but in Castle William. An application which was made by the governor to the council to provide quarters for those two regiments in Boston, greatly increased the alarms of the people; the more, as there was ample room for them at the castle. Indeed it would seem as if it was the intention of the servants of government to enrage the Bostonians, and drive them into an open revolt. General GAGE taking it for granted that it would turn out so, ordered the two regiments to land under cover of the fleet, which was stationed so as to

command the town, with intention to give it military chastisement if any resistance was made. The temper of the Bostonians however, was an over-match for the policy of the government, and the evil designs of the latter were completely frustrated, by the soldiers being permitted to march into the town without opposition, in full military parade, with their bayonets fixed and their muskets loaded for execution. As no quarters had been provided on the governor's requisition, the state house where the provincial representatives sat in council, was taken possession of by the soldiers. Thus was this spirited, industrious and quiet community of freemen, all at once subjected to military coercion—their counsellors overawed by the mercenary troops of a distant country—their streets obstructed by military parade—their public worship disturbed with the continual sound, even at their church doors during sabbath, of martial music, and themselves impeded in the pursuits of their lawful affairs, and challenged at every turn by a host of ruffians in uniform. In this manner was the exasperation of the public feelings not only kept alive, but inflamed by successive injuries and insults; while distrust, hatred, and almost open war subsisted between the provincial representatives of the people and the king's governors, particularly those of Massachusetts. And thus were the Americans every day pushed nearer and nearer to the edge of that rubicon which they were ultimately compelled to plunge into, and cross.

While these unjustifiable encroachments, on one side, and temperate conduct on the other, were carrying on in the colonies, the ministers in the mother country were representing the proceedings of the Americans, as "outrageous tumults," and "manifestations of a rebellious spirit in his majesty's misguided subjects in America;" and parliament expressed its approbation of the measures which had been taken by government; while the whole pack of court creatures and their agents, straggling in every part of the empire, endeavoured, with their utmost art and industry, to

diffuse a belief that those disturbances were created by the repeal of the stamp act. The object of the court party in making an assertion so false, so absurd, and audacious, was of a twofold nature : one, to render the whig party, opposed to them unpopular ; the other, to rid themselves of the imputation of inconsistency, in enacting, repealing, enforcing, yielding, and again attempting to enforce a system of taxation upon the colonists. Such was the influence which the court possessed over the parliament, that both houses, by a concurrent resolution, addressed the king, beseeching him to direct the governor of the province of Massachusetts-Bay to transmit to his majesty information of all treasons committed in that province since the year 1767, with the names of the persons who had been most active in promoting such offences, in order that prosecutions might be instituted against them within the realm, in pursuance of the statute of the 35th of HENRY the VIIIth ; and that the offenders should be brought over to take their trial in England. In the whole train of foolish and unjust devices of the court, which led to the revolution, this may, perhaps, be considered as the worst ; and it will appear most clearly in that light to those who best know the laws and constitution of England. The mind of man can hardly imagine any thing more impolitic and iniquitous than it was, for that body which was the maker and the guardian of the laws of that country to give their sanction to the dragging of a suspected person over three thousand miles of an ocean to take his trial in a strange country, before a jury of strangers, while those very laws forbid any man in England, charged with a crime, to be tried any where but in the country in which the offence is charged to be committed. In this view alone, the address was criminal as a violation of the constitution, and was a stretch of power to which the parliament was legally incompetent. The matter at issue, between the mother-country and the colonies was turned by it into a question between the people of England and their parliament, in as much as it was a direct attack upon the general



rights of the former; and laid the foundation of a principle which, if established, with respect to the British subjects in America, would settle into a fixed precedent for an encroachment of the same kind upon those at home. What was worse, not only the accused, but all the witnesses were to be hurried away from their homes into a distant quarter of the world, without regard to the many dangers they would incur, the losses and distresses they were certain to sustain in the going and returning, or the pain and sorrow inseparable from parting with their friends and relatives, their wives and children—perhaps for ever. Nor is this the only feature of injustice with which this transaction was marked. The selection of Massachussets for the object of vengeance, while the other colonies had followed her example in resisting the taxes, was an act of partial tyranny, at which common sense, as well as moral feeling must recoil, and which well justified that province, in the more than common energy, resolution, and resentment she afterwards displayed in the contest with the mother-country.—In a word, it is clear, that if it was just or necessary to bring over the colonists of Massachussets to England for trial, it was a criminal neglect, and a corrupt partiality, not to bring over all those who were chargeable in the other provinces: And if it was constitutional and fair to bring over any of the colonists at all, to be tried in England, it was no less so to send those under similar charges in England to be tried in America. Considering the constitutional security, and the certainty with which the provisions of the law, for the rights of the people, are at this day carried into effect in Great-Britain, it is impossible to contemplate without astonishment, the dominion which, at that period, a period so little distant from this, the court faction had contrived to obtain over the privileges of the people.

Mischievous as those innovations were, they were no less mean, since they disclosed a pitiful resentment, which would disgrace a private individual. The effect which they pro-



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duced was exactly what might be looked for from such projects—instead of appeasing the spirit of the colonists, they the more irritated it—instead of quelling, they increased the tumults—instead of intimidating, they inspired contempt and imparted confidence—instead of assuaging resentment, they exasperated to vengeance—instead of extinguishing the sparks of discord, they blew them up into a flame, which ultimately covered the whole face of the continent with one universal conflagration.

On the arrival in America, of official information of this fatal address, the assembly of Virginia was convened, the state of the colony and the proceedings in parliament were taken into consideration, and several spirited resolutions were passed, determinately insisting upon their exclusive right to tax their constituents, to petition the sovereign for redress of greivances, and upon the lawfulness of soliciting, and procuring the concurrence of the other colonies in petitions to the throne for its interposition in favour of the violated rights of America—they resolved that all trials for treason, and for any crimes whatsoever committed in that colony, ought to be before his majesty's courts held within the same colony, and that the seizing of any person residing in the said colony who was suspected of any crime whatsoever committed therein, and the sending such person to places beyond the sea to be tried, was highly derogatory from the rights of British subjects. This was followed by an address to the king, in which after asserting the long known and distinguished loyalty of that ancient colony, and their attachment to the king and his ancestors, they expressed their readiness at any time to sacrifice their lives and fortunes in defence of him and his government. They said that it was with the deepest concern and most heartfelt grief, they found that their loyalty had been traduced, and that those measures which their regard for the British constitution made necessary duties, had been represented as acts of rebellion. That while by the laws of the colony, ample provision was made for punishing

those who disturbed the public tranquility, they could not but look with horror, on the unusual and unconstitutional mode recommended by the parliament to the king, of carrying suspected persons out of America to be tried. "How deplorable (said they) must be the case of a wretched American, who having incurred the displeasure of any one in power, is dragged from his native home, and his dearest connections, thrown into a prison, not to await his trial before a court, jury or judges, from a knowledge of whom he is encouraged to hope for speedy justice; but to exchange his imprisonment in his own country, for fetters among strangers: conveyed to a distant land where no friend, no relation, will alleviate his distresses, or minister to his necessities, and where no witnesses can be found to testify his innocence; shunned by the reputable and honest, and consigned to the society and converse of the wretched and abandoned, he can only pray that he may soon end his miseries with his life."—They then call upon the king in the most pathetic, humble and dutiful terms, to avert those miseries which would inevitably be the consequence of the measure then pursued, in respect to the colonies, and after expressing their firm confidence in the king's wisdom and goodness, they assure him that the most fervent prayers of the colony should be offered up to the Almighty, that his majesty's reign might be long and prosperous over Great-Britain, and all his dominions: and that after death his majesty might taste the fullest fruition of eternal bliss, and that a descendant of his illustrious house might reign over the extended British empire, till time should be no more.

To so dutiful, affectionate and loyal an address, it was reasonable to suppose, that an answer of healing lenity would have been returned; but the men in power of that day, seem to have had a perverted nature which rendered them inaccessible to reason or candour, and to be made but the more furious and impracticable by the means which are generally found to conciliate all other people. The gover-

nor, far from treating the assembly with the soothing respect which was calculated to produce a restoration of harmony and good humour, dashed a new and insulting wrong in their teeth—and far from waiting for his majesty's pleasure on the subject of the address, as he ought to have done, the very next day dissolved the assembly in terms and manner no less contemptuous than the act, of dissolving them itself was unjust—"Mr. Speaker, and gentlemen of the house of burgesses, (said he) I have heard of your resolves, and augur ill of their effects. You have made it my duty to dissolve you, and you are dissolved accordingly." The resolutions of the house of burgesses of Virginia, being adopted by that of North-Carolina, was in like manner dissolved by the governor of that province. In consequence of which the members of both met as private gentlemen, elected their late speakers to preside, under the name of moderators, and entered into resolutions against the importation of British goods; the disuse of which being strongly recommended by them, was universally consented to by the people. South-Carolina and Maryland immediately followed the example, and the people of Charleston carried their measures to the extent of cutting off all intercourse with the provinces of Rhode-Island and Georgia, charging them with having acted a base part during the struggles which the colonies were making for their rights and constitutional freedom. This bold stroke produced a speedy effect, those two provinces agreeing to the non-importation resolutions. Thus did every measure adopted by the ministers and their colonial governors to extinguish the spirit of the people, and awe them into compliance, frustrate their own ends, and produce the very effects which they were intended to prevent.

In a short time this measure, so sagaciously contrived to put a curb upon the encroachments of Great-Britain, received the concurrence and co-operation of all conditions of men in every part of the colonies. Where patriotism was wanting, anger supplied its place, and where there was neither,



fear of the public indignation produced compliance with the resolutions. Commercial cupidity, private convenience, individual interest, and even rapacious avarice itself gave way and were borne down before the strong and steady torrent of patriotic enthusiasm which flowed from the heart of the country. The king's governors could not prevail even upon those who were most averse to the non-importation agreement to form a counter-association. Governor Hutchinson of Massachusetts attempted it in vain. While the Bostonians going a step farther than the non-importation, actually re-shipped goods back to Great Britain. In these conflicts between the colonists and their governors, the irritation of both daily increased, and things began to wear an aspect which every good man, whether American or British, must at the time have deeply deplored. The imposition of taxes upon the former, provoked discussions which turned their minds from the good safe old beaten path of usage, and cheerful obedience, into a habit of canvassing abstract points of right, while their oppressors, to give a colour to the despotic views, took ground upon an undefined metaphysical subtlety to maintain their right to taxation. In the course of these discussions, feelings were generated on both sides, which every day acquired fresh exasperation, and threatened to end in implacable hatred, and interminable hostility. On one side wounded pride, rapacity disappointed of its prey, and repressed despotism, plunging and furious at resistance, on the other violated right, rejected supplication, suspected fidelity, and loyalty denied of its rightful reward—protection, and on both sides inflexible obstinacy, gave forebodings of calamities before unthought of. “I will not enter (exclaimed an illustrious and eloquent senator in the British house of commons) I will not enter into these metaphysical distinctions; I hate the very sound of them. Leave the Americans as they anciently stood, and these distinctions, born of our unhappy contest, will die along with it. They and we, and their and our ancestors have been happy under

“ that system. Let the memory of all actions in contradiction  
“ to that good old mode, on both sides, be extinguished for  
“ ever. Be content to bind America by laws of trade ; you  
“ have always done it. Let this be your reason for binding  
“ their trade. Do not burthen them with taxes ; you were not  
“ used to do so from the beginning. Let this be your reason  
“ for not taxing. These are the arguments of states and king-  
“ doms. Leave the rest to the schools ; for there only, they  
“ may be discussed with safety. But if intemperately, uni-  
“ wisely, fatally, you sophisticate and poison the very source  
“ of government, by urging subtle deductions, and conse-  
“ quences odious to those you govern, from the unlimited and  
“ illimitable nature of supreme sovereignty, you will teach  
“ them by these means to call that sovereignty itself in ques-  
“ tion. When you drive him hard, the boar will surely turn  
“ upon his hunters. If that sovereignty and their freedom  
“ cannot be reconciled, which they will take ?—They will cast  
“ your sovereignty in your face. Nobody will be argued into  
“ slavery. Sir, let the gentlemen on the other side call forth  
“ all their ability ; let the best of them get up and tell me,  
“ what one character of liberty the Americans have, and what  
“ one brand of slavery they are free from, if they are bound  
“ in their property and industry, by all the restraints you can  
“ imagine on commerce, and at the same time are made  
“ pack horses of every tax you chuse to impose, without the  
“ least share in granting them. When they bear the bur-  
“ thens of unlimited monopoly, will you bring them to bear  
“ the burthen of unlimited revenue too. The Englishman  
“ in America will feel that this is slavery—that it is *legal*  
“ slavery, will be no compensation either to his feelings or  
“ his understanding. If this be the case, ask yourselves this  
“ question—Will they be content in such a state of slavery ?  
“ If not, look to the consequences. Reflect how you are  
“ to govern a people, who know they ought to be free, and  
“ think they are not. Your scheme yields no revenue. It  
“ yields nothing but discontent, disorder, and disobedience ;

“and such is the state of America, that after wading up to your eyes in blood, you could only end just where you began ; that is, to tax where no revenue is to be found.”

The non-importation agreement very soon began to be felt, or if not really felt, to be feared in England. The injuries which had been sustained by a measure of the same kind in the year 1765, were still fresh in the minds of the merchants and manufacturers, who now enlisted themselves on the side of those who sought a repeal of the taxes. The ministers who had neither firmness to conquer nor magnanimity to submit—neither the integrity to abandon their designs, nor courage to bring the point to a determinate issue, and in whose hearts the retention of power was paramount to all other considerations, were more afraid of displeasing a portion of the people at home, than of spreading ruin among three millions of fellow subjects at a distance, and therefore yielded to the same influence which they had openly censured their predecessors for yielding to in the repeal of the stamp act ; and promised to repeal all the obnoxious taxes, with the exception of that on tea of three pence per pound. Never, in the history of man has there been exhibited such a tissue of political weakness and wickedness as that displayed by the ministers on this occasion. Had they been solicitous to rob the parliamentary supremacy of Britain of its best topics of defence, and to expose the impracticability of maintaining it, they could not have adopted more adequate means to accomplish their wishes, and to convince the colonists that while they were working to retain the principle and keep it hanging over their heads, they had neither the courage nor the means to enforce the practice. Indeed they seem to have been blinded by the hand of heaven ; else how could they have forgotten, that which the meanest plebian understood, namely, that it was the permanent principle, not the value of the taxes which the colonists opposed. Not only the ROCKINGHAM but the GREENVILLE party opposed the retention of the tax upon tea, and pointed out, with for-



cible appeals to reason, the folly of preserving the cause of contention with the colonies, while they gave up the advantages of revenue. The ministers asserted that giving up the whole was relinquishing the authority of the mother country for ever; and insisted that a total repeal should not be thought of till America was prostrate at their feet. Insensible to the beneficial effects that had been produced by the repeal of the stamp act, effects which had exceeded even the predictions of its advocates—and to the very strong proofs which they had before them of the disposition of the colonists to yield to lenity, and to resist compulsory wrong, the arguments of opposition had no effect upon them. They yielded just enough to make them contemptible, and retained enough to produce mischief. Their very concessions had the complexion of insults—and their puny efforts to regain the confidence and affection of America, was accompanied by an insidious scheme of wrong and a paltry deception upon the colonists, which it was an insult to their understandings to suppose them capable of overlooking. “How have we fared since then (said BURKE) what woeful variety of schemes have been adopted; what enforcing, and what repealing; what bullying and what fabricating; what doing and undoing; what straining, and what relaxing; what assemblies dissolved for not obeying, and called again without obedience; what shiftings and changes, and jumbings of all kinds of men at home, which left no possibility of order, consistency, vigour, or even so much as a decent unity of colour in any one public measure !!”

With such weakness and indecision apparent in the conduct of ministers; and on the part of the colonists, such a perfect conviction of the right of taxation being lodged in themselves alone, it is no wonder that every day inspired them with fresh confidence in their own cause and strength, and proportionably diminished their respect for the councils of the mother country, and their awe of her power. The success of their opposition pointed out to them

the folly and meanness of submission, and their motives to resist the attempts made upon them, received additional strength from two considerations—one, the increased evidence of an evil disposition on the part of the ministers, the other, the encouragement they derived from a view of the good purposes which their opposition had accomplished.

The intelligence of the repeal of the taxes, with the exception of that on tea, was very far from producing perfect tranquility in the minds of the colonists, some of whom proposed to persevere in observing the non-importation agreement. This was a trial too great for the commercial part of the community. To make such a sacrifice they required stronger motives than any which at the time existed. Jealousies arose about the misuse of it, and the integrity of those appointed to superintend the conduct of importers was impeached; and the interruption of commerce which had taken place, together with the want of British goods, to which the people were wedded from use, produced inconveniences and privations that were too severely felt to be endured long without some so extraordinary propelling motive to influence them. New York was the first to withdraw from the agreement. The people of that province decided to restore importation generally, with the exception of such articles as remained subject to the tax. A short stand was made against the example of New York, by New England and Philadelphia; but those, finding their remonstrances ineffectual, abandoned the thing, and the non-importation agreement became confined merely to the article of tea. And now the clouds which hung over the political hemisphere of America, darkening its whole horizon, and threatening to burst in thunder upon, and deluge the country with ruin, seemed to stand—a calm ensued; and some faint rays of hope breaking through the gloom, began to cheer the more sanguine with an imaginary prospect of permanent tranquility.—But those who knew the nature of the men on whom the restoration of harmony between the two countries de-

pended, were not so easily to be flattered out of their fears. Imbecility and corruption were unfit guarantees for the purposes of wisdom and probity. From the men who were capable of pinning down the nation in a ridiculous and mischievous dilemma, who could hope for any salutary measure? It has already been shewn that the act of parliament enacting the duties complained of, stated in its preamble, THAT IT WAS EXPEDIENT TO RAISE A REVENUE IN AMERICA. In a fit of trepidation occasioned more by the representations of the people at home, than by the just complaints and opposition in the colonies, almost the whole, that is to say, all of the taxes but the duty upon tea, were at once annihilated by a repeal, and nothing at all was substituted in lieu of them. Nay the secretary of state for the colonies (lord HILLSBOROUGH) in a communication to the several governors of the provinces, disclaimed in the king's name all intention of substituting any tax in the place of them for the future. The tea tax, which like the remains of an ill cured fever, lurked treacherously behind, militated directly with the royal assurance thus authentically conveyed, and constituted an exhaustless source of jealousy and dislike. The preamble still remained, containing the abhorred theory which provoked the colonists, supported only by the enactment of a tax so profitless and unproductive, that it was evidently preserved only as a kind of sponsor for the theory. It contained in it much seed of mischief, contention and irritation, without the least counterbalance of honour or advantage. Instead of a partial repeal there ought to have been a complete and total repeal—or, having failed in that act of justice and wisdom, the first dawning of tranquility which the partial repeal coupled with the minister's promises produced, should have been seized for giving to their pusillanimity and feebleness the colour of generous intentions. The moment when they were displaying the most abject weaknesses, however, was that, in which they most plainly disclosed the inveterate rancour of their motives, and though they could not subdue the



colonists or bend them to compliance, they resolved to retain the means of fretting and vexing them. They had neither the courage to maintain their wrong, nor the magnanimity or justice to abdicate it entirely. Yet even this shadow of it which lingered behind, would never, if left to its own operation have disturbed the returning harmony of the two countries. Without fresh irritation their wounds might have been healed and not a scar been left behind.\* But unfortunately the restless spirit of impotent misjudging ambition was abroad, and nothing but calamity could quell it.

Although the anger of the colonists was appeased, their jealousies and suspicions were not all removed. The immediate cause of irritation being so far withdrawn, their minds became proportionably temperate; their vigilance however was in no way abated, but on the contrary derived new aids from the unruffled coolness of their mind removing the impediments of the passions, and giving full scope for the operations of the judgment. They read, they discussed, they argued and they reasoned themselves into a high sense of liberty, and each succeeding day added something to the accumulated store of conviction, laid up in past struggles, that while a controul over their revenues, and a power of taxing existed in any body in which they were not represented, their property was to all intents and purposes at the mercy of that body, and being so was a brand of slavery. They therefore kept a jealous eye upon the movements of government, expecting every moment to see the claim of taxation, which was laid in a pretended sleep, start up and spring upon them unawares, or in some other shape; and they formed an unalterable determination to watch and to prevent it. Still they considered the royal promise through lord HILLSBOROUGH to be a good temporary defence against the incorrigible improbity of the ruling faction, and seem to

\* Ramsay's history, which ought to be on the shelf of every American and English politician.

have gone as far in confidence as could reasonably be expected from men by nature keen and sagacious, rendered wise by hard experience, and cautious by frequent imposition. "We are sure (said they)† our gracious sovereign, whatever changes may happen in his confidential servants, will remain immutable in the ways of truth and justice, and that he is incapable of deceiving his faithful subjects; and we esteem your lordship's information not only as warranted, but even sanctioned by the royal word." In a word the colonists returned to their accustomed habits, and whatever vigilance they deemed it prudent to exercise, endeavoured to persuade themselves that no future attempts would be made upon them, in the obnoxious shape of parliamentary taxation. Commercial intercourse which had been suspended returned to its place, and many hoped that all hostility was at an end. All the provinces seemed gradually to abate of their suspicions—Massachusetts excepted, where the vital spark of contention was not permitted to expire. This was the point upon which every ray of ministerial vengeance converged. To the people of that province it was owing that the designs of the court faction were detected and successfully opposed. To them it was owing that the whole of the provinces were not burdened with parliamentary taxation and made the pack-horses of ministerial despotism and exaction—they could not be trusted—or if they might, they could not be forgiven. To allow such a people the immunities allowed to those of the other provinces, though reconcileable to policy and justice, was at variance with revenge—the soldiery still continued to be quartered, contrary to law, upon the Bostonians, who could not help inferring from it, that their fidelity was doubted, and their power feared. Always accustomed to look upon a standing army as the instrument of despotism, they considered the retention of the regiments in Boston, not only as a dishonourable

† In answer to lord Botetourt's communication of lord Hillsborough's letter.

mark set upon their fidelity, but as in all likelihood the intended instruments of their subjugation. Sentiments natural enough and rendered still more strong, by the pointed partial dislike which they thought they saw was entertained for them by government. The soldiery being viewed with so very jealous an eye by the Bostonians, it is no wonder that personal disagreements frequently arose among them. It is unalterably fixed in the nature of man, that the partialities and animosities of the individual members of any body or community shall gradually extend to the whole. Repeated injuries on both sides, and repeated consequent quarrels by degrees embittered the soldiery and inhabitants against each other, till, in an unlucky hour of irritation and fury a riot ensued, which blew up a flame of discord that never ceased to burn in a greater or more mitigated degree, till all contests were extinguished in the revolution. On the second of March (1770) a quarrel between a soldier and an inhabitant, drew into it a number of others, till many got engaged. The anger generated by this incident swelled to an enormous size and gave rise to very unwarrantable determinations of revenge on the part of the mob, who instead of waiting, if the soldiers had been in fault, for the slower but more just and certain process of the law, resolved upon taking the execution of vengeance into their own hands, and on the fifth of March, while the soldiers were under arms at their barracks, came there armed with clubs, with sticks, and (what was worse, because partaking of the treachery of concealed weapons,) with stones inclosed in snow-balls; and attacked them while on duty. Unhappily a soldier who had received a blow from one of those missile weapons, in the distraction of pain, suffered his rage so far to overcome his discipline that he fired at the aggressor. Several others followed his example, and three of the people were killed and five wounded. A general commotion ensued; the bells of the town were rung to alarm the inhabitants; drums beat to arms; the people tumultuously rushed in multitudes from all parts,



and collected in an immense concourse at the scene of action where seeing the dead bodies, they became enfrenzied with rage, and were proceeding to rush upon the soldiers (the 29th regiment) then drawn up under arms in King-street; when the interposition of the lieutenant governor and other respectable persons with difficulty restrained them, with an assurance that the laws should be enforced against the offenders. The regiment was marched back to the barracks. The people were prevailed upon to disperse. The soldiers who fired, and the officer who commanded them were committed to prison to stand their trial. And on the succeeding day a meeting of above four thousand inhabitants, among whom were some of the most respectable personages in the town, assembled at Faneuil Hall, and after a cool deliberation addressed the governor, observing that it was now impossible that the soldiers and inhabitants could any longer live together in peace or safety; that nothing but the immediate removal of the troops could prevent further blood-shed and carnage, and that therefore they besought him to exert his power and influence to have them removed. To this the governor replied, that he deplored the event which had taken place, and had taken measures to have the affair inquired into and justice done; that he had not the command of the military who were there under the orders of the general at New York, which orders he had not authority to countermand; that on application to the colonel of the regiment, he had engaged that the 29th regiment should be marched to the castle till further orders could be received from the general; and that the main guard should be removed and the other regiment (the 14th) so disposed of, and restrained that all occasions of future disturbance should be removed. This answer however was declared to be unsatisfactory, and a committee was appointed, who waited on the lieutenant governor to inform him, that nothing less than an immediate and total removal of the troops would satisfy the people. This vote was laid by governor HUTCHINSON before the council, who

declared unanimously that it was absolutely necessary for his majesty's service, for the good order of the town, and for the peace of the province, that the troops should be immediately removed out of the town of Boston. Upon the strength of this, colonel DALRYMPLE gave his word of honour that measures should be immediately taken to march the soldiers off without delay; and thus tranquillity was restored for the time.

Captain PRESTON and eight of his men were brought to trial before a respectable jury, when it appeared in evidence that the populace had abused, insulted, threatened with death and even slung stones at the soldiers before the latter fired, and that only seven guns had been discharged by the eight prisoners. Under these circumstances the jury thought themselves bound to give a verdict bringing in captain PRESTON and six of the men not guilty, and two of the men guilty of manslaughter only. Thus not only were the culpability and rashness of the multitude and the fatality of the catastrophe in some sort expiated, but the discredit which their tumultuous conduct might have reflected upon the town of Boston completely wiped away by the virtuous and honourable conduct of the court, the jury and the bar, who though they cannot be supposed to have been insensible to the wrongs, or unconcerned in the resentments of their country, yet divested themselves of all partialities, and cloathed themselves at once in the pure and spotless robes of justice. "The result of the trial (says a candid and sagacious historian)\* reflected great honour on JOHN ADAMS and JOSIAH QUINCY, the counsel for the prisoners, and also on the integrity of the jury, who ventured to give an upright verdict in defiance of popular opinions."

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\* Ramsay.

## CHAPTER XXIII.

## HISTORY OF THE PASSING TIMES.

## CONGRESS.

## JUDGE CHASE'S TRIAL—ABRIDGED.

[Continued from page 288.]

IN reply it was said that the laws of the land would be of little avail, if the administration of them was stained with political venom. It had been said on the part of the respondent that a condemnation, if it should take place, would not be a certain proof of the guilt of the judge—true said the replicant, and thank God acquittal if it should take place, will not be a certain proof of his innocence. Hastings was acquitted, but who believed him to be innocent?—The sort of innocence he could boast of, was procured by the plunder of empires. It had been alledged by the respondent's advocates, that those for the impeachment had endeavoured to enlist the sympathies of the court in favour of Fries and Callender against the judge. This charge the replicant's positively denied, insisting that they had not addressed themselves at all, to the feelings of the court; but on the contrary had demanded justice. It was not judge Chase's having reduced his opinion to writing but his publicly delivering it, before the prisoner's counsel was heard, in presence of the jury, in order to bias them unduly against the prisoners. The answer of judge Chase proved this; for in it he had himself declared that "he did inform Mr. Lewis that the court were of the same opinion concerning the law of treason as had been given in the case of Vigot and Mitchell; and again on the first trial of Fries." This, the replicants insisted, was expressly de-



declaring that the acts charged against Fries amounted to treason, and that too in the presence of the jury : and as there was no controversy with regard to the facts of which Fries was charged, the inference plainly was, that the court had determined that Fries was guilty of treason. It had been said by the judge's advocates that his delivering the opinion was to aid Fries' counsel. If it were so (asked the replicants) why did not the judge make an earlier communication of it so as to enable them to make use of it?—It was true that it had been stated in the defence as a set-off against this part of the charge that the judge had restricted the counsel on both sides—but how restricted?—What restriction had been put upon the attorney general?—Why none. On him there was no restriction, save that of not defending Fries, imposed upon him by his oath of office : and the judge certainly could not be considered as laying any restriction upon him by telling him the law was on his side. On this point the replicants insisted that Mr. Lewis's testimony was more deserving of credit than that of Mr. Rawle ; the former as a party concerned in it, being naturally more attentive than the latter, who was too much occupied by his official situation to pay attention, and took no notes. Mr. Rawle's evidence on this point was merely negative, he having only said that he recollected nothing about any restriction. And, besides all this, Mr. Rawle stated one point different from what it was stated by the respondent.

The replicants agreed to the position laid down by the defence, that "to support an impeachment there must be proved some offence against a positive law." But they insisted that it was a quibble to contend that the respondent was not impeachable because there was no positive law prohibiting what he had done. The judge, they maintained, had violated his oath of office by acting partially, and by so violating it, had also violated the law which prescribed that oath. They insisted that the arguments of the respondent's counsel, on the first article had contradicted each other—one of them

(Mr. Martin) having stated and argued it on principles of law that no offence had been committed by the judge—the other (Mr. Harper) having acknowledged that an offence was committed, but that the respondent had repented it. The words of the latter they said were these, “the error in reducing his opinion to writing was corrected, the paper withdrawn, and the counsel instructed to go on their own way. This, the replicants, said, plainly evinced that the court conceived itself to have acted improperly: and they put the question upon it, whether any man was fit to preside in a court of justice, who had been obliged to make atonement for misconduct by prostrating his office at the feet of an advocate.

On that part of the article which charged the judge with refusing to let the counsel of Fries read the authorities and decisions upon treason in England, previous to the revolution, and the laws of congress upon that subject, the replicants insisted, that if the prisoner's counsel deemed them material to their client's defence, the court had no right to prevent them from reading them; and the judge by so preventing them, did, in reality, deprive Fries of the benefit of counsel. The replicants said, that before the instance now complained of came to their knowledge, they had ever supposed that no court in the union could have refused to hear the opinion of the legislature on so important a subject as that of high treason: for even though congress had not the power to define treason, it being already defined by the superior authority of the constitution, still, the opinions of so enlightened a body as congress ought to be respectfully listened to, and allowed the utmost weight. The reason why the counsel of Fries were desirous to read the laws of congress, was that they wished by their authority to demonstrate, that the opinion formed by judge Chase without hearing any discussion or arguments upon the subject, was incorrect. They had a right, said the replicant, to do so if they were able, but of that right they were deprived by the court. Thus then, they insisted, two charges were proved against

the respondent—one, that he delivered an opinion in writing on the question of law, before the prisoner's counsel were heard—the other that he had restricted the prisoner's counsel from citing authorities, which they deemed necessary to the defence of their client. And here the replicant uttered his solemn protest against judge Chase's opinion on the law of treason, and declared that he did not believe John Fries was guilty of that crime. He added that he was convinced Fries was pardoned because the then president (Adams) believed the conduct of the court to be erroneous; that had the unfortunate man not been pardoned, the judge would have had his blood to answer for at the judgement seat; and he applauded the conduct of president Adams, who, he said was justly entitled to the eulogium pronounced upon him in the opening of the case, by a manager (Mr. Randolph) by prostrating his office at the feet of an advocate. John Fries he observed was either an innocent man, and ought to be acquitted, or a traitor to his country, and ought to have expiated on a gibbet the crime he had committed. What then he asked must have been the conduct of the respondent which induced the executive to pardon a most notorious offender, and one to whom mercy ought not to have been shewn, or on the other hand to put an innocent man to the risk of death, without a fair trial. If John Fries was innocent, an innocent man had been condemned to death without trial. If guilty, he was tried without the forms of law, and the president was obliged in justice to sign his pardon.

To establish the criminality of judge Chase in the case of Callender, the replicants in contradiction to the defence, said that full evidence of the judge's improper motives existed in his refusal to postpone Callender's trial to the next term. He (Callender) had made an affidavit stating that he required time not only to procure certain books which were to shew the truth of part of "*The Prospect before Us*," but to bring witnesses necessary to his defence, who were at a great distance from Richmond—and further deposing that the



evidence of the witnesses alluded to, would defeat no less than eight of the criminal acts charged in the indictment.—But what was the judge's reply? Why, that if the witnesses were present they could not exculpate Callender, and therefore he would agree to postpone the trial only for six weeks. That is to say, he would postpone only to such a time that he could preside at the trial. This, the replicants said, was proof demonstrative of the judge being actuated by improper motives. How could the court presume to say, or how know whether the witnesses to be produced could or could not exculpate Callender. Never, they said, was there a case known before this in which the court took upon it to inquire whether the presence of witnesses was likely to exculpate parties. How different from this was the conduct of British judges. There was a case in Cowper's reports where a person charged, filed an affidavit, stating the absence of a witness, who, if present would prove a fact which gave a death blow to the indictment, and that the witness was out of the jurisdiction of the court. Such was the humanity of the British courts, that the judge informed the prosecutor, that unless he would consent to take the deposition of the witness, he would postpone the cause for ever.

Against that part of the defence which went to judge Chase's admitting Mr. Basset as a juror, the replicants insisted that upon the very face of that gentleman's own shewing in the court, he was incompetent and ought not to have been admitted, and they went over the whole of the circumstances to establish their proposition. Callender therefore instead of being tried by twelve jurors, was in fact tried only by eleven. After what had appeared in evidence it was obvious, they said, that Bassett could not be an impartial juror. His opinion had been formed and delivered in the face of the court, and against that opinion how could he give a verdict. It was observable, the replicants said, that the law adduced in defence of this admission of Bassett, was drawn from star-chamber decisions in unconstitutional times, though deci-

sions of the same kind were refused in the case of Fries. And Keelynge their authority was complained of for innovations on the rights of juries, and a committee appointed to investigate his conduct.\* And the resorting to such authorities was conclusive against the judge.

On Friday the first of March, 1805, at half past twelve o'clock, the court took their seats, and the president having directed the secretary to read the first article of impeachment, observed that the question would be put to each member, on each article separately, as his name occurred in alphabetical order. The first article was then read. When the question was hereupon put by the president of the court, and repeated after each article as read, viz.

Is Samuel Chase, esq. guilty or not guilty of a high crime or misdemeanor in the article of impeachment just read, and decided as follows:—

Article 1st. guilty	16	not guilty	18
2d.	10		24
3d.	18		16
4th.	18		16
5th.	not guilty unanimous.		
6th.	4		30
7th.	10		24
8th.	19		15

The President then said, "There not being a constitutional majority on any one article, it becomes my duty to pronounce that Samuel Chase, esquire, is acquitted on the articles of impeachment exhibited against him by the house of representatives.

\* He was tried and honorably acquitted.